

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT
HOUSTON DIVISION**

STEFANO GERMINALE §
Plaintiff, §
§
vs. §
§
AMICA MUTUAL INSURANCE COMPANY §
Defendant. §

CIVIL ACTION NO. 4:19-cv-4429

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Defendant Amica Mutual Insurance Company and files this Notice of Removal pursuant to 28 U.S.C. §1332(a), on the basis of diversity jurisdiction. In support thereof, Defendant would respectfully show this Honorable Court the following:

I.
Brief Statement of Facts

A. On October 11, 2019, this cause of action was commenced by Plaintiff Stefano Germinale against Defendant Amica Mutual Insurance Company. The suit was commenced in the 80th Judicial District Court of Harris County, Texas. A copy of Plaintiff's Original Petition is attached hereto as Exhibit A and incorporated herein by reference.

B. On or about October 16, 2019, Defendant Amica Mutual Insurance Company was duly served with and received notice of Plaintiff's Original Petition. Thus, this Notice of Removal is timely filed on today's date as it is within the thirty day time period mandated by 28 U.S.C. 1446(b).

C. Plaintiff files suit against Defendant, alleging causes of action for bad faith, breach of contract, and violations of the Texas Insurance Code and Texas Deceptive Trade Practices Act. *See Exhibit A.* A demand for a jury was made by Plaintiff in his Original Petition.

D. Amica Mutual Insurance Company, the carrier that issued the policy of insurance involved in this matter, is a citizen of Rhode Island with its principal place of business located in Lincoln, Rhode Island. *See Exhibits B (printout from website of State of Rhode Island and Providence Plantations Office of Secretary of State), and C (printout from website of Texas Department of Insurance).* Upon information and belief, Plaintiff is a citizen of Texas.

II. **Arguments and Authorities**

A. The judicial power of the United States extends to controversies between citizens of different states. Art. 3, §2, United States Constitution. Federal district courts have jurisdiction over all civil actions between citizens of different states, so long as the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. § 1332(a). Defendant Amica is a foreign company. It is a citizen of Rhode Island and its principle place of business is also in Rhode Island. Plaintiff is a citizen of Texas. In Plaintiff's Original Petition, Plaintiff asserts an amount in controversy within the jurisdiction of this Court. *See Exhibit A, paragraph 2: seeking "monetary relief over \$200,000 but not more than \$1,000,000."*

B. By reason of the aforementioned premises, Defendant desires and is entitled to have this cause removed from the 80th Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division, such being the District where said suit is pending.

C. Written notice of the filing of this Notice of Removal will be given to Plaintiff, by and through his counsel of record as required by law.

D. A true and correct copy of this Notice of Removal will be filed with the Clerk of the 80th Judicial District Court of Harris County, Texas.

WHEREFORE, PREMISES CONSIDERED, Defendant Amica Mutual Insurance Company prays that this action be removed to this Honorable Court and that this Honorable Court accept jurisdiction of this action and henceforth that this action be placed on the docket of this Honorable Court for further proceedings, the same as though this action had originally been instituted in this Honorable Court.

Respectfully submitted,

FLETCHER, FARLEY,
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By: /s/ Joanna Lippman Salinas
Joanna Lippman Salinas
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Attorneys for Defendant,
Amica Mutual Insurance Company

Certificate of Service

I hereby certify that a true and correct copy of the foregoing **Defendant's Notice of Removal** has been provided to the offices of:

Danny Ray Scott
SCOTT LAW OFFICES, P.C.
P.O. Box 53358
Houston, Texas 77052

by electronic service, in accordance with the Federal Rules of Civil Procedure, on November 11, 2019.

/s/ Joanna Lippman Salinas
Joanna Lippman Salinas